

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL ACTION</b>
	<b>:</b>	<b>NO. 05-432</b>
<b>vs.</b>	<b>:</b>	
	<b>:</b>	<b>CIVIL ACTION</b>
<b>NELKIS GUTIERREZ-GAINZA</b>	<b>:</b>	<b>NO. 09-2613</b>

**ORDER**

**AND NOW**, this 10th day of August, 2009, upon consideration of the *pro se* Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 filed by petitioner, Nelkis Gutierrez-Gainza (Document No. 160, filed June 8, 2009), and the Government's Response, for the reasons set forth in the attached Memorandum, **IT IS ORDERED** that the *pro se* Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 filed by petitioner, Nelkis Gutierrez-Gainza, is **DENIED**.

**BY THE COURT:**

/s/ Jan E. DuBois  
**JAN E. DUBOIS, J.**